

REMARKS

Claims 1-26 are pending. Claims 1-13 are rejected. Claims 14-26 are withdrawn.

Rejections under 35 U.S.C. §112, second paragraph

Claims 3-6 are rejected as being indefinite under 35 U.S.C. §112, second paragraph.

Applicants believe the rejections are moot in light of the amendment to claims 3 and 6.

Rejections under 35 U.S.C. §112, first paragraph

Claims 1-13 are rejected under 35 U.S.C. §112, first paragraph as allegedly lacking sufficient description in the specification. Applicants respectfully disagree and believe the claims as originally filed have sufficient support in the specification. Regardless, Applicants believe these rejections are now moot in light of the amendment to claims 3, 9 and 13.

Rejections under 35 U.S.C. §102

Claims 1, 2, 4, and 8-13 are rejected as being anticipated by U.S. patent publication No. 2002/0094440 by Llanos et al. ("Llanos").

Claim 1 defines a medical article. The medical article comprises a coating disposed on at least a portion of an implantable medical device. The coating comprises: (a) a fluorinated polymer; and (b) a biologically beneficial polymer. The biologically beneficial polymer is selected from poly(ethylene glycol)(PEG), PEG, block-copolymers of PEG with poly(butylene terephthalate) (PBT), hyaluronic acid, poly(ethylene oxide-co-propylene oxide), phosphoryl choline, polyaspirin, or poly(ester amide) polymers.

Llanos describes a medical device comprising a coating that includes a copolymer formed of a first moiety selected from vinylidene fluoride (VDF) or tetrafluoroethylene (TFE) and a second moiety that provides toughness or elastomeric properties to the copolymer. It is clear that Llanos describe a coating having one copolymer BUT NOT a coating having (a) a fluorinated polymer and (b) a biologically beneficial polymer as defined by claim 1. Accordingly, claim 1 is

patentably allowable over Llanos under 35 U.S.C. 102(b). Claims 2, 4, and 8-13 depend from claim 1 and are patentably allowable over Llanos for at least the same reason. In addition, claims 8-11 further specify the structure of the biologically beneficial polymer recited therein, which Llanos fails to describe or teach. Therefore, aside from their dependency from claim 1, claims 8-11 are additionally patentably allowable over Llanos for reciting any of the additional features of the biological beneficial polymer.

Rejections under 35 U.S.C. §103

Claims 3, 5 and 6 are rejected as being obvious over Llanos in view of U.S. Patent No. 6,756,458 to Kashiwagi et al. ("Kashiwagi").

Claim 3 depends from claim 1 and requires the fluorinated polymer to be selected from (a) products of polymerization of fluorinated olefins; (b) products of polymerization of fluorinated cyclic esters; (c) fluorine-containing cyclic polymers having a main chain with an asymmetrical cyclic structure; or (d) copolymers of perfluoro-2,2-dimethyl-1,3-dioxole with perfluoroolefins or with perfluoro(alkyl vinyl) ethers. As discussed above, Llanos fails to describe or teach the biologically beneficial polymer as defined by claim 1. Kashiwagi describes a method of producing a fluorinated diene polymer via cyclopolymerization. However, Kashiwagi fails to describe or teach a biologically beneficial polymer as defined by claim 1. Therefore, Kashiwagi does not cure the deficiencies of Llanos. Claim 3 is therefore patentably allowable over Llanos in view of Kashiwagi. Claims 5 and 6 depend from claim 3 and are patentably allowable over Llanos in view of Kashiwagi for at least the same reasons.

Obviousness type double patenting

Claims 1-13 are rejected on the ground of obviousness-type double patenting as being unpatentable over claims 1-10 of U.S. Patent No. 7,169,404 in view of Llanos and Kashiwagi. Applicants believe the enclosed terminal disclaimer renders these rejections moot.

Claims 1-13 are rejected on the ground of obviousness-type double patenting as being unpatentable over claims 1-11, 20 and 21 of copending U.S. application No. 11/641,250 in view of Llanos. Applicants believe the enclosed terminal disclaimer renders these rejections moot.

Applicant elects poly(vinylidene fluoride-co-hexafluoropropene) (Solef™) as the species of the genus fluorinated polymer and the polymer of claim 11 where R is H as the species of the genus biologically beneficial polymer for examination. Claims 1-4, and 7-13 all read upon Solef™, and claims 1-13 all read upon the polymer of claim 11 where R is H.

The undersigned authorizes the examiner to charge any fees that may be required or credit of any overpayment to be made to Deposit Account No. 07-1850.

CONCLUSION

If the Examiner has any questions or concerns, the Examiner is invited to telephone the undersigned attorney at (415) 393-9885.

The undersigned authorizes the examiner to charge any fees that may be required or credit of any overpayment to be made to Deposit Account No. **07-1850**.

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Respectfully submitted,

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